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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 FRED G. L., an Individual,

12 Plaintiff,

13 v.

14 ANDREW M. SAUL, Commissioner of  
15 Social Security,

16 Defendant.

Case No.: 8:18-01543 ADS

MEMORANDUM OPINION AND ORDER  
OF REMAND

17 **I. INTRODUCTION**

18 Plaintiff Fred G. L.<sup>1</sup> (“Plaintiff”) challenges Defendant Andrew M. Saul<sup>2</sup>,  
19 Commissioner of Social Security’s (hereinafter “Commissioner” or “Defendant”) denial  
20 of his application for a period of disability and disability insurance benefits (“DIB”). For  
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22 <sup>1</sup> Plaintiff’s name has been partially redacted in compliance with Federal Rule of Civil  
23 Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court  
Administration and Case Management of the Judicial Conference of the United States.

24 <sup>2</sup> On June 17, 2019, Saul became the Commissioner of Social Security. Thus, he is  
automatically substituted as the defendant under Federal Rule of Civil Procedure 25(d).

1 the reasons stated below, the decision of the Commissioner is REVERSED and  
2 REMANDED.

3 **II. FACTS RELEVANT TO THE APPEAL**

4 A review of the entire record reflects certain uncontested facts relevant to this  
5 appeal. Prior to filing his application for social security benefits, Plaintiff last worked as  
6 a warehouse worker. (Administrative Record “AR” 65, 193). Plaintiff testified that he  
7 has suffered from arteriovenous malformation (“AVM”)<sup>3</sup> since he was 12 years old, at  
8 one point causing him to go into a coma. (AR 51-52, 53). In the 1990s, when he had full  
9 medical coverage, doctors performed experimental surgeries on him. (AR 52). These  
10 relieved some of the headaches “a little bit.” (AR 53). Doctors thought he was cured,  
11 but his head started pounding one day at work in January 2015. (AR 51, 54). He was  
12 hospitalized, and they discovered he still had AVM and that bleeding in his head caused  
13 the pounding. (AR 51-52, 54). Plaintiff testified he stopped working because they told  
14 him to do so. (AR 51). In addition to head pounding, he experiences dizziness, vomiting,  
15 and headaches. (AR 52). He has the headaches every day. (AR 58). The pain from  
16 them increases when does certain activities, like climbing stairs. (AR 58). He has to use  
17 the bathroom three or four times in the morning because he can’t push. (AR 58). If he  
18 carries a gallon of milk, he has to stop, put it down, and let his heart rate come down.  
19 (AR 59). He cannot drive. (AR 61). Plaintiff used to ride a bike, but he testified he  
20 crashed several times due to dizziness. (AR 61-62). If he stands too long, his head will

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23 <sup>3</sup> Generally, AVM is an “abnormal tangle of blood vessels connecting arteries and veins,  
24 which disrupts normal blood flow and oxygen circulation.” McGiboney v. Corizon, 2019  
WL 3048339, at \*1 (D. Idaho July 11, 2019) (internal quotation marks and citation  
omitted).

1 pound. (AR 63). Plaintiff stated he has “acute emergencies” due to his condition about  
2 once a week. (AR 54).

3 Plaintiff also testified that the only things that have really helped reduce his  
4 headaches is medical marijuana, laying down, and sleeping. (AR 53-54). He was  
5 prescribed OxyContin and Norco, but he stopped taking them because of adverse side  
6 effects. (AR 53-54). As follow up treatment after he was hospitalized, he received  
7 embolizations.<sup>4</sup> (AR 54). The embolizations did not shrink his AVM enough, so  
8 medical professionals considered scheduling him for the Gamma knife.<sup>5</sup> (AR 63). But,  
9 because his AVM “is wrapped around [his] optic nerve,” they did not administer that  
10 procedure because they were concerned it would blind him. (AR 63).

11 During the embolizations, medical professionals discovered Plaintiff’s  
12 hydrocephalus<sup>6</sup> from his “brain not draining” correctly and resulting in swelling that  
13 pushes his brain against his skull. (AR 55). Plaintiff’s doctor recommended surgery and  
14 placement of a stent in his head, so Plaintiff scheduled that surgery. (AR 55). Although  
15 Plaintiff’s insurance company initially said it would pay for the procedure, four days  
16 before surgery they informed him they would no longer cover it and told him to cancel.  
17 (AR 55). The insurance company explained that he had been out of work for a year, and  
18 they no longer were required to insure him. (AR 55-56). Plaintiff stated that ever since  
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20 <sup>4</sup> Embolization procedures are performed “by injecting a substance which blocks the  
21 sources of bleeding into the blood stream.” McCord v. Maguire, 873 F.2d 1271, 1272  
(9th Cir.), as amended, 885 F.2d 650 (9th Cir. 1989).

22 <sup>5</sup> The Gamma knife procedure involves providing “intense doses of radiation given to  
23 target area(s) while largely sparing the surround tissues.” Silvis v. California Dep’t of  
24 Corr., 2011 WL 766130, at \*9 (E.D. Cal. Feb. 25, 2011).

<sup>6</sup> “Hydrocephalus results from an excessive accumulation of cerebrospinal fluid . . . in  
the brain, causing abnormal widening of spaces in brain ventricles and potentially  
harmful pressure on brain tissues.” Howard v. Colvin, 2016 WL 5420558, at \*2 (C.D.  
Cal. Sept. 27, 2016).

1 then his headaches have grown exponentially. (AR 55). He can hear his heart beat in  
2 his head due to the swelling. (AR 55-56, 63).

3 After his insurance company cancelled his insurance, Plaintiff stated that he  
4 obtained Medi-Cal, but the hospital wouldn't take that coverage. (AR 56). He is angry  
5 that they cancelled his insurance and surgery, but he's also scared that if he has it done  
6 they will "mess[] with my head." (AR 56). He tried to buy a better insurance plan  
7 through Obamacare, but the plan he found charged even more for the procedure, and he  
8 couldn't afford it. (AR 56; see also AR 242).

9 Plaintiff testified that his headaches and overall condition have stopped him from  
10 being able to work and having a normal life. (AR 63).

### 11 **III. PROCEEDINGS BELOW**

#### 12 **A. Procedural History**

13 Plaintiff filed a claim for Title II social security benefits on September 3, 2015,  
14 alleging disability beginning January 5, 2015. (AR 162-63). Plaintiff's DIB application  
15 was denied initially on May 5, 2016 (AR 71), and upon reconsideration on June 30, 2016  
16 (AR 94). A hearing was held before ALJ Susanne M. Cichanowicz on February 16, 2018.  
17 (AR 43-70). Plaintiff, represented by counsel, appeared and testified at the hearing, as  
18 well as vocational expert Alan Boroskin. (AR 43-70).

19 On April 16, 2018, the ALJ found that Plaintiff was "not disabled" within the  
20 meaning of the Social Security Act.<sup>7</sup> (AR 29-36). The ALJ's decision became the  
21 Commissioner's final decision when the Appeals Council denied Plaintiff's request for  
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23 <sup>7</sup> Persons are "disabled" for purposes of receiving Social Security benefits if they are  
24 unable to engage in any substantial gainful activity owing to a physical or mental  
impairment expected to result in death, or which has lasted or is expected to last for a  
continuous period of at least 12 months. 42 U.S.C. § 423(d)(1)(A).

1 review on July 22, 2018. (AR 1-7). Plaintiff then filed this action in District Court on  
2 August 29, 2018, challenging the ALJ's decision. [Docket ("Dkt.") No. 1].

3 On January 28, 2019, Defendant filed an Answer, as well as a copy of the  
4 Certified Administrative Record. [Dkt. Nos. 19, 20]. The parties filed a Joint  
5 Submission on April 18, 2019. [Dkt. No. 22]. The case is ready for decision.<sup>8</sup>

6 **B. Summary of ALJ Decision After Hearing**

7 In the ALJ's decision of April 16, 2018 (AR 29-36), the ALJ followed the required  
8 five-step sequential evaluation process to assess whether Plaintiff was disabled under  
9 the Social Security Act.<sup>9</sup> 20 C.F.R. § 404.1520(a)(4). At **step one**, the ALJ found that  
10 Plaintiff had not been engaged in substantial gainful activity since January 5, 2015, the  
11 alleged onset date. (AR 31). At **step two**, the ALJ found that Plaintiff had the following  
12 severe impairments: AVM; status-post intraventricular hemorrhage; hydrocephalus;  
13 and obesity. (AR 32). At **step three**, the ALJ found that Plaintiff "does not have an  
14 impairment or combination of impairments that meets or medically equals the severity  
15 of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR  
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17 <sup>8</sup> The parties filed consents to proceed before the undersigned United States Magistrate  
18 Judge, pursuant to 28 U.S.C. § 636(c), including for entry of final Judgment. [Dkt. Nos.  
19 7, 12].

20 <sup>9</sup> The ALJ follows a five-step sequential evaluation process to assess whether a claimant  
21 is disabled: Step one: Is the claimant engaging in substantial gainful activity? If so, the  
22 claimant is found not disabled. If not, proceed to step two. Step two: Does the claimant  
23 have a "severe" impairment? If so, proceed to step three. If not, then a finding of not  
24 disabled is appropriate. Step three: Does the claimant's impairment or combination of  
impairments meet or equal an impairment listed in 20 C.F.R., Pt. 404, Subpt. P, App. 1?  
If so, the claimant is automatically determined disabled. If not, proceed to step four.  
Step four: Is the claimant capable of performing his past work? If so, the claimant is not  
disabled. If not, proceed to step five. Step five: Does the claimant have the residual  
functional capacity to perform any other work? If so, the claimant is not disabled. If  
not, the claimant is disabled. Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995)  
(citing 20 C.F.R. §404.1520).

1 404.1520(d), 404.1525 and 404.1526).” (AR 32). None of these findings are challenged  
2 by Plaintiff.

3 The ALJ then found that Plaintiff had the following Residual Functional Capacity  
4 (“RFC”)<sup>10</sup> to:

5 [P]erform a reduced range of light work as defined in 20 CFR  
6 404.1567(b) as follows: lift, carry, push, and pull 20 pounds  
7 occasionally, 10 pounds frequently; sitting for 6 of an 8[-]hour day,  
8 standing and walking for no more than 2 hours out of an 8-hour day;  
9 frequent climbing of ramps and stairs, no climbing of ladders, ropes,  
and scaffolds; frequent balancing, stooping, kneeling; occasionally  
crouching and crawling; and avoid exposure to hazards such as  
moving mechanical parts and unprotected heights.

10 (AR 32).

11 At **step four**, based on Plaintiff’s RFC and the vocational expert’s testimony, the  
12 ALJ found that Plaintiff was unable to perform his past relevant work as a warehouse  
13 worker or warehouse supervisor. (AR 35).

14 At **step five**, the ALJ found that, “[c]onsidering the claimant’s age, education,  
15 work experience and [RFC], there are jobs that exist in significant numbers in the  
16 national economy that [Plaintiff] can perform.” (AR 35). The ALJ accepted the  
17 vocational expert’s testimony that Plaintiff would be able to perform the representative  
18 occupations of: Packaging (Dictionary of Occupational Titles (“DOT”) 559.687-014);  
19 Document Preparer (DOT 249.587-018); and Assembly (DOT 734.687-018). (AR 36).  
20 As such, the ALJ found that Plaintiff was “not disabled,” as defined in the Social Security  
21 Act, at any time from January 5, 2015, through the date of the ALJ’s decision. (AR 36).  
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24 <sup>10</sup> An RFC is what a claimant can still do despite existing exertional and nonexertional  
limitations. See 20 C.F.R. § 404.1545(a)(1).

1 **IV. ANALYSIS**

2 **A. Issues on Appeal**

3 Plaintiff raises four issues for review: (1) whether the ALJ properly considered his  
4 subjective allegations; (2) whether the ALJ properly considered a borderline-age  
5 situation; (3) whether the ALJ properly considered the consultative examiner's opinion;  
6 and (4) whether the ALJ properly developed the record. [Dkt. No. 22 (Joint  
7 Stipulation), pp. 2-3]. For the reasons below, the Court agrees with Plaintiff regarding  
8 the ALJ's failure to properly consider his subjective allegations, and remands on that  
9 ground.

10 **B. Standard of Review**

11 A United States District Court may review the Commissioner's decision to deny  
12 benefits pursuant to 42 U.S.C. § 405(g). The District Court is not a trier of the facts but  
13 is confined to ascertaining by the record before it if the Commissioner's decision is  
14 based upon substantial evidence. Garrison v. Colvin, 759 F.3d 995, 1010 (9th Cir. 2014)  
15 (District Court's review is limited to only grounds relied upon by ALJ) (citing Connett v.  
16 Barnhart, 340 F.3d 871, 874 (9th Cir. 2003)). A court must affirm an ALJ's findings of  
17 fact if they are supported by substantial evidence and if the proper legal standards were  
18 applied. Mayes v. Massanari, 276 F.3d 453, 458-59 (9th Cir. 2001). An ALJ can satisfy  
19 the substantial evidence requirement "by setting out a detailed and thorough summary  
20 of the facts and conflicting clinical evidence, stating his interpretation thereof, and  
21 making findings." Reddick v. Chater, 157 F.3d 715, 725 (9th Cir. 1998) (citation  
22 omitted).

23 "[T]he Commissioner's decision cannot be affirmed simply by isolating a specific  
24 quantum of supporting evidence. Rather, a court must consider the record as a whole,

weighing both evidence that supports and evidence that detracts from the Secretary's conclusion." Aukland v. Massanari, 257 F.3d 1033, 1035 (9th Cir. 2001) (citations and internal quotation marks omitted). "Where evidence is susceptible to more than one rational interpretation,' the ALJ's decision should be upheld." Ryan v. Comm'r of Soc. Sec., 528 F.3d 1194, 1198 (9th Cir. 2008) (citing Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005)); see Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006) ("If the evidence can support either affirming or reversing the ALJ's conclusion, we may not substitute our judgment for that of the ALJ."). However, the Court may review only "the reasons provided by the ALJ in the disability determination and may not affirm the ALJ on a ground upon which he did not rely." Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007) (citation omitted).

**C. The ALJ Failed to Properly Consider Plaintiff's Subjective Complaints**

Plaintiff asserts that the ALJ improperly evaluated his credibility and subjective complaints. Defendant contends that the ALJ appropriately found Plaintiff's testimony not fully supported by the record.

**1. Legal Standard for Evaluating Claimant's Testimony**

A claimant carries the burden of producing objective medical evidence of his or her impairments and showing that the impairments could reasonably be expected to produce some degree of the alleged symptoms. Benton ex rel. Benton v. Barnhart, 331 F.3d 1030, 1040 (9th Cir. 2003). Once the claimant meets that burden, medical findings are not required to support the alleged severity of pain. Bunnell v. Sullivan, 947 F.2d 341, 345 (9th Cir. 1991) (en banc); see also Light v. Soc. Sec. Admin., 119 F.3d 789, 792 (9th Cir. 1997) ("claimant need not present clinical or diagnostic evidence to



1 support the severity of his pain”) (citation omitted)). Defendant does not contest, and  
2 thus appears to concede, that Plaintiff carried his burden of producing objective medical  
3 evidence of his impairments and showing that the impairments could reasonably be  
4 expected to produce some degree of the alleged symptoms.

5       Once a claimant has met the burden of producing objective medical evidence, an  
6 ALJ can reject the claimant’s subjective complaint “only upon (1) finding evidence of  
7 malingering, or (2) expressing clear and convincing reasons for doing so.” Benton, 331  
8 F.3d at 1040; Brown–Hunter v. Colvin, 806 F.3d 487, 489 (9th Cir. 2015) (“we require  
9 the ALJ to specify which testimony she finds not credible, and then provide clear and  
10 convincing reasons, supported by evidence in the record, to support that credibility  
11 determination”); Laborin v. Berryhill, 867 F.3d 1151, 1155 (9th Cir. 2017).

12       The ALJ may consider at least the following factors when weighing the claimant’s  
13 credibility: (1) his or her reputation for truthfulness; (2) inconsistencies either in the  
14 claimant’s testimony or between the claimant’s testimony and his or her conduct; (3) his  
15 or her daily activities; (4) his or her work record; and (5) testimony from physicians and  
16 third parties concerning the nature, severity, and effect of the symptoms of which she  
17 complains. Thomas v. Barnhart, 278 F.3d 947, 958-59 (9th Cir. 2002) (citing Light, 119  
18 F.3d at 792). “If the ALJ’s credibility finding is supported by substantial evidence in the  
19 record, [the court] may not engage in second-guessing.” Id. at 959 (citing Morgan v.  
20 Apfel, 169 F.3d 595, 600 (9th Cir. 1999)).

1                   2. The ALJ Failed to Provide Clear and Convincing Reasons Supported by  
2                   Substantial Evidence

3                   Having carefully reviewed the record, the Court finds that the ALJ failed to  
4                   articulate specific clear and convincing reasons for discounting Plaintiff's testimony.<sup>11</sup>  
5                   The ALJ discounted Plaintiff's subjective complaints because he had minimal treatment  
6                   since July 2015, and because they were not consistent with the objective medical  
7                   evidence. (AR 33-34).

8                   Regarding the first reason, the ALJ discussed how Plaintiff had a cerebral  
9                   angiogram with embolization in July 2015, and then stated "yet there is little evidence of  
10                  any other treatment or routine follow-up visits." (AR 33). Similarly, later in the  
11                  decision she noted a "lack of recent medical records." (AR 34). The ALJ noted  
12                  Plaintiff's statement that this was "because he lacks insurance coverage to seek  
13                  treatment." (AR 33). The ALJ fails to explain why this reason was insufficient to justify  
14                  Plaintiff's gap in recent treatment. The Ninth Circuit has repeatedly warned the agency  
15                  that the inability to afford treatment (particularly, one assumes, in the circumstance of a  
16                  person suffering from significant mental and cognitive conditions) is not an appropriate  
17                  reason to reject a medical opinion. See Warre v. Comm'r of Soc. Security, 439 F.3d  
18                  1001, 1006 (9th Cir. 2006) ("benefits may not be denied to a disabled claimant because  
19                  of a failure to obtain treatment that the claimant cannot afford"); Nguyen v. Chater, 100  
20                  F.3d 1462, 1465 (9th Cir. 1996) (holding that it is a "questionable practice" for an ALJ to  
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23                  <sup>11</sup> The ALJ did not make a finding of malingering in her opinion. (AR 28-36). Thus, in  
24                  discounting Plaintiff's subjective complaints, the ALJ was required to articulate specific,  
                    clear and convincing reasons. See Benton, 331 F.3d at 1040; Brown-Hunter, 806 F.3d at  
                    489.

1 “chastise one with a mental impairment for the exercise of poor judgment in seeking  
2 rehabilitation.”).

3 The Commissioner faults Plaintiff for failing to explain why he did not seek  
4 treatment “from clinics or resources for low income persons.” [Dkt. No. 22, pp. Jt. Stip.  
5 12-13]. But Plaintiff did seek at least one low-income option, Medi-Cal, only to discover  
6 the hospital that was to perform the surgery would not accept Medi-Cal. (AR 56); see  
7 Bucholtz v. Belshe, 114 F.3d 923, 924 (9th Cir. 1997) (describing Medicaid as a federal  
8 program that provides medical assistance to “low-income persons” and that California  
9 participates in the program through Medi-Cal); Cedars-Sinai Med. Ctr. v. Shewry, 137  
10 Cal. App. 4th 964, 969 (2006) (“California’s Medi-Cal program implements the federal  
11 Medicaid program, which funds medical services for elderly and low-income persons.”).  
12 Plaintiff also testified that he tried to obtain another plan through Obamacare, but that  
13 plan charged even more for his procedure, which he could not afford. (AR 56).

14 Nowhere in the decision does the ALJ discuss Plaintiff’s attempts at obtaining other  
15 coverage, or otherwise explain what else Plaintiff should have done differently, or that  
16 any low-income options were even available for his procedure. Accordingly, the ALJ’s  
17 reliance on the recent gap in Plaintiff’s treatment is neither a clear nor convincing  
18 reason for discounting his testimony. See, e.g., Surman v. Comm’r of Soc. Sec. Admin.,  
19 2018 WL 3491667, at \*6 (C.D. Cal. July 19, 2018) (noting there was no indication ALJ  
20 considered explanation that low-income options did not provide treatment claimant  
21 required); Ramirez v. Colvin, 2013 WL 1752453, at \*5 (C.D. Cal. Apr. 22, 2013) (ALJ  
22 improperly discounted claimant’s testimony based on failure to seek help at county  
23 facilities because record did not show claimant “unreasonably failed to avail herself of  
24 such resources, and the ALJ made no specific finding that they were even available”).

1       The remaining reason given by the ALJ for discounting Plaintiff's symptoms is  
2 also insufficient. On two occasions, the ALJ referenced the same justification for  
3 doubting Plaintiff's credibility: the lack of support in the objective medical evidence of  
4 record. See AR 33 (finding Plaintiff's statements were "not entirely consistent with the  
5 medical evidence"), 34 (allegations of limitations due to headaches "is not supported by  
6 the full medical evidence of record"). However, because the ALJ did not provide any  
7 other clear and convincing reason for discounting Plaintiff's subjective complaints,  
8 reliance on the lack of support in the objective evidence alone is not a sufficient basis for  
9 the ALJ's credibility determination. See Burch, 400 F.3d at 681 (lack of objective  
10 medical evidence to support subjective symptom allegations cannot form the sole basis  
11 for discounting pain testimony); Dschaak v. Astrue, 2011 WL 4498835, at \*1 (D. Or.  
12 Sept. 27, 2011) ("[O]nce the[] other bases for the ALJ's decision were discarded as  
13 erroneous, the ALJ's credibility determination could not rely solely on conflicts with the  
14 medical evidence."). Contrary to the Commissioner's assertion, [Dkt. No. 22, pp. 11-12],  
15 the ALJ's summary of the medical evidence is not sufficient to support the finding. See  
16 Brown-Hunter v. Colvin, 806 F.3d 487, 494 (9th Cir. 2015) (credibility determination  
17 insufficient when ALJ "simply state[s] her non-credibility conclusion and then  
18 summarize[s] the medical evidence"). Moreover, the Court views the the consultative  
19 examiner's "normal" findings (AR 34), mentioned briefly in the credibility  
20 determination, as objective evidence.<sup>12</sup>

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22 <sup>12</sup> Even looking to those findings, the Court agrees with Plaintiff that they do not cast  
23 doubt on the veracity of his complaints. [Dkt. No. 22, pp. 9-10]. The consultative  
24 examiner specifically said that, despite the lack of "focal findings on the examination,"  
Plaintiff had "legitimate complaints of significant headaches associated with his  
hydrocephalus." (AR 530). Thus, even if the ALJ could rely on these objective findings

1 Based on the above analysis, this Court concludes the ALJ committed error in  
2 discounting Plaintiff's testimony, without a clear and convincing explanation supported  
3 by substantial evidence. In this instance, the Court cannot conclude that the ALJ's error  
4 was harmless. See, e.g., Brown-Hunter, 806 F.3d at 492-93 (ALJ's failure adequately to  
5 specify reasons for discrediting claimant testimony "will usually not be harmless"). In  
6 light of the significant functional limitations reflected in Plaintiff's subjective  
7 statements, the Court cannot "confidently conclude that no reasonable ALJ, when fully  
8 crediting the [Plaintiff's] testimony, could have reached a different disability  
9 determination." Stout v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050, 1055-56 (9th Cir.  
10 2006).

11 **D. The Court Declines to Address Plaintiff's Remaining Arguments**

12 Having found that remand is warranted, the Court declines to address Plaintiff's  
13 remaining arguments. See Hiler v. Astrue, 687 F.3d 1208, 1212 (9th Cir. 2012)  
14 ("Because we remand the case to the ALJ for the reasons stated, we decline to reach  
15 [plaintiff's] alternative ground for remand."); see also Alderman v. Colvin, 2015 WL  
16 12661933, at \*8 (E.D. Wash. Jan. 14, 2015) (remanding in light of interrelated nature of  
17 ALJ's decision to discount claimant's credibility and give appropriate consideration to  
18 physician's opinions, step-two findings, and step-five analysis); Augustine ex rel.  
19 Ramirez v. Astrue, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008) ("[The] Court need  
20 not address the other claims plaintiff raises, none of which would provide plaintiff with  
21 any further relief than granted, and all of which can be addressed on remand."). Because  
22 it is unclear, in light of these issues, whether Plaintiff is in fact disabled, remand here is  
23 \_\_\_\_\_  
24 as the sole reason for discounting Plaintiff's credibility, it is not convincing considering  
the examiner's conclusion regarding the findings.

1 on an “open record.” See Brown-Hunter, 806 F.3d at 495; Bunnell v. Barnhart, 336  
2 F.3d 1112, 1115-16 (9th Cir. 2003). The parties may freely take up all issues raised in the  
3 Joint Stipulation, and any other issues relevant to resolving Plaintiff’s claim of disability,  
4 before the ALJ.

5 **E. Remand For Further Administrative Proceedings**

6 Remand for further administrative proceedings, rather than an award of benefits,  
7 is warranted here because further administrative review could remedy the ALJ’s errors.  
8 See Brown-Hunter, 806 F.3d at 495 (remanding for an award of benefits is appropriate  
9 in rare circumstances). The Court finds that the ALJ failed to properly evaluate  
10 Plaintiff’s subjective complaints. On remand, the ALJ shall properly review and  
11 evaluate Plaintiff’s testimony and reassess Plaintiff’s RFC. The ALJ shall then proceed  
12 through steps four and five, if necessary, to determine what work, if any, Plaintiff is  
13 capable of performing.

14 **V. ORDER**

15 IT IS ORDERED that Judgment shall be entered REVERSING the decision of the  
16 Commissioner denying benefits, and REMANDING the matter for further proceedings  
17 consistent with this Order. Judgement shall be entered accordingly.

18  
19 DATE: March 19, 2020

20  
21 /s/ Autumn D. Spaeth  
22 THE HONORABLE AUTUMN D. SPAETH  
23 United States Magistrate Judge  
24